IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Mahendra Kumar & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. petition No. 1028/2005
against the order dated 6-5-2005 passed
by the Additional Sessions Judge, Rajgarh,
Camp Churu, in Criminal Revision No.33/2005.

...

Date of Order: July 14, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Kailash Khatri, , for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Nagraj Goswami, for the non-petitioner No.2.

BY THE COURT:

Heard learned counsel for the petitioner, Public Prosecutor for the State and the counsel for the non-petitioner No.2.

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioners have assailed the order dated 6-5-2005 passed by the Additional Sessions Judge, Rajgarh, camp Churu (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 33/2005, whereby the

revision petition filed by the petitioners against the order dated 2.7.2004 passed by the Judicial Magistrate, Sardarshahar (for short, "the trial Court" hereinafter) in Criminal Case No. 247/2002, was dismissed and the order taking cognizance passed by the trial Court was affirmed.

Learned counsel for the petitioners submits that though the police has filed the Challan against two persons, viz. Shyam Lal and Seema, but as far as present petitioners are concerned, the police has filed negative final report but the trial court also took cognizance against the present petitioners and issued process.

I have carefully gone through the order passed by the trial Court, which is a well-reasoned order running in seven pages. The trial Court has discussed the statements of witnesses recorded by the police during investigation under Section 161 of the Code and from the statements of witnesses recorded by the police, particularly the statements of Dharmendra, Nathu, Dalip Kumar, Jitendra etc., came to the conclusion that prima facie there is sufficient material and evidence which shows that apart from aforesaid two persons Shyam Lal and Seema against whom the police filed the Challan, the present petitioners also committed the offence and consequently took cognizance and issued process against the present petitioners also.

It is settled law that filing of a negative final report is within the domain of police and taking cognizance is within the domain of the Court. I am fortified with my view by a decision of the Hon'ble Supreme Court in Jagdish Ram Vs. State of Rajasthan, AIR 2004 SC 1734.

Keeping in view the decision of the Hon'ble Supreme Court in Jagdish Ram Vs. State of Rajasthan (supra), the elaborate order passed by the trial Court and affirmed by the Revisional Court, there being concurrent findings of the Courts below that prima facie a case is made out against the present petitioners also, I do not find any error, illegality or perversity in the impugned orders warranting interference under the inherent jurisdiction of this Court. It cannot be said that the impugned orders would result in serious miscarriage of justice.

The criminal miscellaneous petition is dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs